



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: John Stufflebean

SUBJECT: SEE BELOW

DATE: 04-05-10

Approved 

Date 4/15/10

COUNCIL DISTRICT: City-Wide

SUBJECT: 2010-2011 COUNTYWIDE AB939 IMPLEMENTATION FEE AND PARTICIPATION IN THE COUNTYWIDE HOUSEHOLD HAZARDOUS WASTE COLLECTION PROGRAM

RECOMMENDATION

Approval of:

1. The Agency Agreement with the County of Santa Clara for Countywide Household Hazardous Waste Collection Program for 2010-2011.
2. The Agency Agreement with the County of Santa Clara for Countywide AB939 Implementation Fee for 2010-2011.

OUTCOME

With approval of the agreements, the City will be able to accommodate the growing number of participating residents utilizing the household hazardous waste (HHW) drop-off service and disposal. The City will also continue to provide a means for reducing the amount of toxins that enter the City's landfills, storm sewers and sanitary sewers, and prevent these toxins from threatening both San Francisco Bay and local groundwater supplies. The HHW program supports the goals of the City's Green Vision, Zero Waste Plan, and Urban Accords by helping to divert hazardous waste from landfills and by protecting the ecological integrity of the Bay and the City's drinking water supply. This program also provides the only legal means that residents have available to dispose of such materials, which includes Universal Wastes (UW) that contain mercury, lead, cadmium, copper and other substances hazardous to human and environmental health. Examples of UW include batteries, fluorescent tubes, and compact fluorescent lamps.

BACKGROUND

Countywide AB939 Implementation Fee and HHW Collection Program

The California Integrated Waste Management Act of 1989 (AB939) authorizes local jurisdictions to impose fees to recover the costs of implementing and administering source reduction and recycling programs. The County has collected the AB939 Implementation Fee on behalf of all jurisdictions within the County since July 1992, when the initial \$1.00 per ton fee was established. The County Board of Supervisors and local cities approved increases to \$1.15 in 1993 - 1994, to \$1.30 in 1995-1996, to \$2.80 in 1999 - 2000, to \$3.35 per ton in 2002 - 2003 through 2005 - 2006. In 2006 - 2007, the Fee was increased to \$3.72 to support anticipated increases in volumes of UW. The Fee was reduced to \$3.55 for 2007 - 2008 and 2008 - 2009 to reflect the reduced cost for actual collection of UW.

As the County collects the AB939 Implementation Fee on behalf of other jurisdictions, each jurisdiction contracts with the County for collection and distribution of these funds. All fifteen cities must approve the Agency Agreement for Countywide AB939 Implementation Fee by June 30, 2010. Should one or more jurisdictions not approve this agreement, the AB939 Implementation Fee will not be collected, effective July 1, 2010.

To comply with state law and local needs, the County of Santa Clara and fourteen cities cooperated in the creation of the HHW Program. Since 1992, all cities except for the City of Palo Alto have contracted with the County to provide HHW services through an Agency Agreement for Countywide Household Hazardous Waste Collection Program. The HHW Program provides the only legal means for residents to dispose of most of these types of wastes. The County administers all operational aspects of the HHW Program and is responsible for recycling and waste disposal. The Countywide Program also provides drop-off service for small businesses on a cost-recovery basis and is far less expensive than if the business was required to contract out for service.

ANALYSIS

Countywide AB 939 Implementation Fee

The County has prepared an agreement for the continuation of the AB939 Implementation Fee. This State mandated fee is charged by the landfills to the haulers for each ton of material disposed. The haulers build in this expense within their collection rates, which are paid by residents. For 2010 – 2011, there will be no fee increase, in which the \$4.10 rate per ton of material disposed at landfills will remain the same as the 2009 – 2010 rate. The fee consists of \$2.60 per ton for household hazardous waste services, and \$1.50 per ton to assist in funding the costs of preparing, adopting, and implementing the Integrated Waste Management plan in the 15 cities and the unincorporated area of the County. Once approved by Council and the County Board of Supervisors, the fee will be renewed on July 1, 2010.

At the January 8, 2009 County Recycling and Waste Reduction Commission Technical Advisory Committee (TAC) meeting, the cities within the County agreed on providing service to a minimum of 4% of the households in each jurisdiction. However, as participation rises above 4%, the County requires budget augmentations from each municipality to fund the associated increases in costs. The augmentation estimated for 2010 – 2011 is \$15,000, which will be deducted from the City's allocation of the Available Discretionary Funding portion of the AB939 fee, which is returned to the City annually.

The Recycling and Waste Reduction Commission (RWRC) of Santa Clara County voted to recommend approval to reauthorize the AB939 fee at their February 22, 2010 meeting. The RWRC serves as the principal advisory body to city councils and the Board of Supervisors on countywide solid waste planning issues, and sponsors countywide public outreach programs, activities, and campaigns which are an increasingly important part of the Countywide Cooperative Program.

EVALUATION AND FOLLOW-UP

Upon approval of these agreements, the County shall collect the AB939 Implementation Fee on behalf of the City and shall provide HHW collection services for the City. Staff does not anticipate any additional Council action for the administration of this program during the term of these agreements.

POLICY ALTERNATIVES

Alternative # 1: City does not provide an HHW Program.

Pros: The City would have no administrative costs related to the HHW Program. This would save the City about half an employee. In addition the City could establish its own AB939 Implementation Fee to be used for other City solid waste diversion programs.

Cons: Without an HHW Program, San José residents would have no legal or safe disposal pathway for many discarded household toxics. This would create a public health and safety issue for residents, small businesses, and solid waste and recycling workers. The City would also lose a significant compliance program element of its National Pollution Discharge Elimination Permit System (NPDES) permits. In this instance, the City would be put at risk for adverse regulatory action from State and Federal regulators, as well as citizen law suits.

Reasons for not recommending: The savings in administrative costs are very limited. The failure to provide a HHW program to San José residents may cause the City to be in non-compliance with its NPDES permit.

Alternative #2: City opts out of participation in the Countywide HHW Program and establishes a City administered HHW program. The City would impose its own AB939 Implementation Fee at landfills within San José to finance the program.

Pros: This would provide the same service for its residents without any need to cooperate with the County. New City staff positions would be created to provide this service.

Cons: In developing its own capacity for providing HHW services for residents and small businesses, the City could lose economies of scale from participating in a Countywide program. There could also be negative cost effects for all other cities if San José no longer participates in the program.

Reasons for not recommending: Under the current arrangement, the City may benefit in significant cost advantages from sharing overhead and other fixed costs Countywide. Furthermore, since the City represents approximately half of the participation in the Countywide HHW Program, it is possible that economies of scale offered to the other participating cities would be eliminated without the City's participation.

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet the criteria listed above, this program has been discussed at publicly noticed meetings of the Santa Clara County Recycling and Waste Reduction Commission and its Technical Advisory Committee. Agendas for these meetings are distributed to representatives of all cities in the County and to other interested parties. Agendas and minutes are also posted on the Commission's website. In addition, this memorandum is posted on the City's website for the Council Agenda of April 27, 2010.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

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COST IMPLICATIONS

There are no cost implications to the City for the Agency Agreement for Countywide Household Hazardous Waste Collection Program and Agency Agreement for Countywide AB939 Implementation Fee.

This recommendation is consistent with the Mayor's budget strategy, Green Vision and Urban Environmental Accords, providing much needed services to San José residents and small businesses while protecting vital core services, managing recycling and garbage services, and managing urban runoff quality.

CEQA

Not a project.

/s/

JOHN STUFFLEBEAN

Director, Environmental Services

For questions, please contact Jo Zientek, Deputy Director, Environmental Services Department, at (408) 535-8557.